



July 15, 2022

Via Electronic Filing

Washington Department of Ecology
Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

*RE: NW Energy Coalition's comments regarding the Climate Commitment Act Program Rule,
Chapter 173-446 WAC.*

Dear Joshua Grice:

The NW Energy Coalition (“NWEC” or “Coalition”) appreciates the opportunity to provide comments on the Climate Commitment Act Program (“Program”) Rule. The Coalition is a public interest nonprofit that focuses on clean energy issues in the Northwest. As an alliance of more than 100 organizations, the Coalition’s work focuses on energy efficiency, renewable energy, fish and wildlife preservation and restoration in the Columbia basin, low-income and consumer protections, and informed public involvement in building a clean and affordable energy future. NWEC submitted initial comments on the Washington Climate Commitment Act Program rulemaking on January 26, 2022. While the Climate Commitment Act (CCA) covers emissions from multiple sectors, our comments and attached redlines will primarily address components of the rule impacting electric and natural gas utilities, specifically, areas that warrant additional consideration.

WAC § 173-446-230 – Distribution of Allowances to Electric Utilities

NWEC agrees with Ecology that the sources used to inform utility-specific forecasts and allocate allowances for each emissions year should accurately represent the resource mix used by an electric utility to comply with the Clean Energy Transformation Act (CETA). We support the prioritization of sources outlined in WAC 173-446-230(1)(b) but offer additional considerations to help ensure accurate allowance allocation and that the intended outcomes of the Program are realized.

The sources used to inform utility-specific forecasts will have a significant impact on the integrity of the Program, particularly in the first few years. In order to ensure accurate allowance allocation and mitigate against the risk of over- or under-allocation of no-cost allowances to electric utilities, it is essential that the forecast be based on a model that is well-vetted, robust, and as closely representative of utility system operations as possible. We understand WAC 173-446-230(1)(b)(i) provides flexibility with respect to the type of model used by the Utilities and Transportation Commission (UTC) or the governing boards to create the forecast. **Regardless of the model that is ultimately used, a transparent public process is needed to review the forecast.** If WAC 173-446-230(1)(b)(ii) is utilized, additional oversight from the Washington Utilities and Transportation Commission (UTC) and the Washington

State Department of Commerce (Commerce) will be necessary to ensure clean energy implementation plans accurately represent utilities' operational resource mix.

In order for the utility-specific forecasts to approximate actual system operations, they must incorporate the impacts of CETA and the effects of a carbon price on resource dispatch. To our knowledge, the effects of a carbon price are not currently reflected in resource dispatch in power cost baseline models. Therefore, absent an update, these models would reflect a resource mix with higher greenhouse gas emissions than would be expected under CCA, leading to an over-allocation of no-cost allowances to electric utilities. **We encourage Ecology to work with the UTC in the case of investor-owned utilities, Commerce, and the governing boards of consumer-owned utilities to ensure utility-specific forecasts incorporate the impacts of CETA and the effects of a carbon price on resource dispatch.** This will help reduce the need for an electric utility allowance true-up.

Lastly, RCW 70A.65.120 outlines requirements for electric utilities to use the value of no cost allowances for the benefit of ratepayers. The rule fails to provide adequate guidance on the use of the value of no cost allowances for electric utilities. We recommend Ecology add rule language to WAC 173-446-230(5) and other relevant sections to enforce the statutory requirements and prioritize benefits to low-income ratepayers, as detailed in the attached redlines.

WAC § 173-446-240 – Distribution of Allowances to Natural Gas Utilities

RCW 70A.65.130 outlines requirements for natural gas utilities to use the value of no cost allowances for the benefit of customers. Similar to our concerns regarding the use of the value of no-cost allowances for electric utilities, the rule fails to provide adequate guidance on the use of the value of no cost allowances for natural gas utilities. We recommend Ecology add rule language to WAC 173-446-240(3) and other relevant sections to enforce the statutory requirements and prioritize benefits to low-income ratepayers, as detailed in the attached redlines.

WAC § 173-446-300 – Auctions of Current and Prior Year Allowances

NWEC has several recommendations regarding WAC 173-446-300. First, we recommend language be added to WAC 173-446-300(2)(b)(i) and WAC 173-446-300 (2)(b)(vi) to clarify that no-cost allowances allocated to electric utilities benefit electric ratepayers and no-cost allowances allocated to natural gas utilities benefit natural gas customers, respectively. We believe this language clarifies that no-cost allowances provided to dual fuel utilities are not to be shifted from electric service to natural gas service and vice versa. This does not preclude electric and natural gas utilities from investing in programs that reduce their compliance obligation, including decarbonization programs.

Second, we recommend incorporating guidance on the use of the value of no cost allowances for electric and natural gas utilities. California's Cap-and-Trade Program includes guidance on the use of no cost allowances and similar guidance is necessary to meet the requirements of the Climate Commitment Act.¹ For electric utilities, we recommend guidance consistent with RCW 70A.65.120(4) be added to

¹ Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms, § 95892, titled "Allocation to Electrical Distribution Utilities for Protection of Electricity Ratepayers," and, § 95893, titled "Allocation to Natural Gas Suppliers for Protection of Natural Gas Ratepayers."

WAC 173-446-300(2)(b). We've summarized our recommendation included in the attached redlines, as detailed below.

- We recommend electric utilities first prioritize low-income residential ratepayers bill credits and energy efficiency programs.
- After providing low-income residential ratepayers bill credits sufficient to meet the funding levels set in RCW 19.405.120(4)(a)(iii), electric utilities must provide overburdened communities energy assistance, home or small business energy efficiency programs, and decarbonization programs.
- After providing bill credits and energy services, electric utilities must provide other ratepayers home or small business energy efficiency programs and decarbonization programs.

For natural gas utilities, we recommend guidance consistent with RCW 70A.65.130 be added to WAC 173-446-300(2)(b)(vii). We recommend natural gas utilities first use revenues to provide low-income ratepayers nonvolumetric bill credits. After providing bill credits to low-income ratepayers, utilities must use revenues to benefit other residential, and small business customers through weatherization, decarbonization, conservation and efficiency services, and bill assistance.

Finally, we recommend adding language to clarify that the UTC may impose additional requirements on investor-owned electric and natural gas utilities.

Utility Ratepayer Benefit Reporting

NWEC recommends adding a new section to ensure the requirements outlined in WAC 173-446-230, WAC 173-446-240, and WAC 173-446-300 are met. This section outlines streamlined reporting requirements, including reporting on: (1) the number of no cost allowances allocated to the utility during the previous calendar year; (2) how many allowances the utility consigned for sale during the previous calendar year; (3) how much revenue was generated by the sale of consigned allowances during the previous calendar year, and how much revenue was returned by Ecology to the utility during the previous calendar year; (4) the monetary value of any revenue from previous years' consignment of no cost allowances that remains unspent after being returned to the utility by Ecology; and, (5) the total spending for the benefit of ratepayers during the previous calendar year. Specific language is outlined in the attached redlines.

Conclusion

NWEC, along with The Energy Project, support the attached redlines. These changes will help ensure accurate allowance allocation to utilities, maximize benefits to utility customers, and increase the integrity of the Program.

Thank you for your consideration of NW Energy Coalition's comments.

Sincerely,

Annabel Drayton
Policy Associate
NW Energy Coalition
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Attachment A: Proposed Redlines

NEW SECTION

WAC 173-446-230 Distribution of allowances to electric utilities. (1) Total no cost allowances allocated to electric utilities. Allowances allocated to electric utilities for a compliance period are based on the cost burden effect of the program. Ecology will use the following methods to determine how cost burden and its effect will be used to allocate allowances to each electric utility for each emissions year.

(a) Ecology will use utility-specific forecasts that provide retail electric load.

(b) Ecology will determine the generation resource fuel type forecasted to be used to provide retail electric load for a utility for the compliance period. This determination will be based on the following sources, in the order necessary to most accurately determine the resource mix that will be used by that electric utility to comply with the Clean Energy Transformation Act, chapter 19.405 RCW.

(i) A forecast and supporting information created for the specific purpose of informing this calculation which has been approved by the utilities and transportation commission in the case of an investor-owned utility, or approved by the governing board of a consumer owned utility in the case of a consumer-owned utility, as long as the forecast is also consistent with the requirements of the Clean Energy Transformation Act, chapter 19.405 RCW.

(ii) The clean energy implementation plan for a utility that is submitted pursuant to chapter 19.405 RCW, the Washington Clean Energy Transformation Act.

(iii) An integrated resource plan, or supporting materials for that plan, that is consistent with or used for the clean energy implementation plan.

(iv) For multijurisdictional electric companies, a multistate resource allocation methodology that has been approved by the utilities and transportation commission. If the commission approves a methodology specific to this purpose, that methodology will be used in lieu of an existing general methodology that may be adapted by ecology using methods consistent with chapter 173-441 WAC.

(v) Another source that is consistent with a forecast approved by the appropriate governing board or the utilities and transportation commission of each utility's electricity supply and resource demand.

(c) Ecology will use the following emission factors to determine the emissions associated with the projected generation mix.

(i) For generation that is projected to be served by natural gas, the factor will be 0.4354 MT CO_{2e}/MWh.

(ii) For generation that is projected to be served by coal, the factor will be 1.0614 MT CO_{2e}/MWh, unless that generation is coal transition power, as defined in RCW 80.80.010, in which case the factor is zero.

(iii) For generation identified as a nonemitting or a renewable resource in the clean energy implementation plan, use an emission factor of zero.

(iv) For any generation from which the fuel type source is unknown or unknowable, and for unspecified market purchases, use the unspecified emission factor using the procedures identified in WAC 173-444-040.

(d) The cost burden effect from the emissions for each utility will be calculated according to Eq. 230-1. The resulting total emissions represents the cost burden effect for the utility.

$$\text{Cost Burden Effect} = (\text{GenNG} \times \text{EFNG}) + (\text{GenCoal} \times \text{EFCoal}) + (\text{GenNE,RE} \times 0) + (\text{GenRemaining} \times \text{EFUnspecified})$$

Where:

Gen = Generation of natural gas (NG), coal, and nonemitting and renewable resource (NE, RE), and remaining generation.

EF = Emission factor for natural gas (NG), coal, and unspecified electricity.

(e) One allowance will be allocated for each metric ton of emissions of the cost burden effect for each electric utility for each emissions year as projected through this process.

(f) An additional number of allowances will be allocated to account for the administrative costs of the program beginning in the second compliance period. The number of allowances allocated for this purpose will be determined by ecology based on a three-year rolling average of program costs derived from audited financial statements from utilities with a cost burden from the program. The mean allowance auction price from this time period will be used to translate average administrative costs into the appropriate number of allowances.

(2) Total allowances allocated for the purposes of recognizing voluntary renewable electricity purchases. Ecology will allocate allowances to a voluntary renewable electricity reserve account pursuant to RCW 70A.65.090 (9) and (11). The number of allowances allocated to the voluntary renewable electricity reserve account for the first compliance period will be 0.33 percent of the total annual allowance budget for each year as provided in Table 210-1.

(3) If a facility is identified by ecology as EITE under chapter 173-446A WAC, and if allowances have not been otherwise allocated for the electricity-related emissions for that facility and to the facility under other provisions of this chapter, then ecology will allocate allowances at no cost to the electric utility or power marketing administration that is providing electricity to the EITE facility in an amount equal to the forecasted emissions for electricity consumption for the facility for the compliance period.

(4) A consumer-owned utility that is party to a contract that meets the following conditions will be issued allowances under this section for emissions associated with imported electricity, in order to prevent impairment of the value of the contract to either party.

(a) The contract does not address compliance costs imposed upon the consumer-owned utility by the program created in this chapter; and

(b) The contract was in effect as of July 25, 2021, and expires no later than the end of the first compliance period.

(5) Allowances allocated at no cost to electric utilities may be consigned to auction for the benefit of ratepayers, transferred at no cost to an electric generating facility as described in WAC 173-446-425, deposited for compliance, or a combination of these uses. While no cost allowances may be held for future use, they may not be traded or transferred other than as authorized to WAC 173-446-425. [Electric utilities must first use revenue from consigned allowance sales to benefit low-income ratepayers, as described in WAC 173-446-300\(2\).](#)

NEW SECTION

WAC 173-446-240 Distribution of allowances to natural gas utilities. (1) Allocation baselines for suppliers of natural gas. Ecology will use the following data sources and methods to facilitate the allocation of no cost allowances to suppliers of natural gas.

(a) Ecology will assign an allocation baseline to each supplier of natural gas using the methods for subtotal baselines established in WAC 173-446-200 (2)(c) for emissions years 2015 through 2019. Allowance allocation is based on the allocation baseline for the supplier of natural gas.

(b) A supplier of natural gas that is a covered entity under WAC 173-446-030(1) must submit a complete GHG report as specified in WAC 173-441-122(4) for each emissions year 2015 through 2021 by March 31, 2022, in order to qualify for no cost allowances. A supplier of natural gas that becomes a covered entity under WAC 173-446-030(1) or 173-446-060 after 2023 must submit a complete GHG report as specified in WAC 173-441-122(4) for each emissions year 2015 through the current reporting year by the reporting deadline in WAC 173-441-050 for the year it becomes a covered entity in order to qualify for no cost allowances.

(c) Prior to the beginning of a new compliance period, ecology may make an upward or downward adjustment in the allocation baseline for a supplier of natural gas effective starting in the next compliance period. Any adjustment must be based on significant changes to emissions from:

(i) Revised reports under WAC 173-441-050(7) for emissions years used in determination of the allocation baseline;

(ii) A new assigned emissions level under WAC 173-441-086 for emissions years used in determination of the allocation baseline; or

(iii) A change in reporting method as described in WAC 173-441-050(4) relative to the method used for reports from emissions years used in determination of the allocation baseline.

(2) **Total no cost allowances allocated to natural gas utilities.** The following method establishes the total no cost allowances allocated to a given supplier of natural gas for a given emissions year.

(a) Emissions years 2023 through 2030.

(i) The total number of no cost allowances distributed to a natural gas supplier for emissions year 2023 is equal to 93 percent of the supplier's allocation baseline.

(ii) The total number of no cost allowances for 2024 through 2030 distributed to a natural gas supplier decreases annually relative to the previous year by an additional seven percent of the supplier's allocation baseline.

(b) Emissions years 2031 through 2042.

(i) The total number of no cost allowances distributed to a natural gas supplier for emissions year 2031 is equal to their 2030 allowance budget reduced by an additional one and eight tenths percent of their allocation baseline.

(ii) The total number of no cost allowances distributed to a natural gas supplier for 2032 through 2042 decreases annually relative to the previous year by an additional one and eight tenths percent of the supplier's allocation baseline.

(c) Emissions years 2043 through 2049.

(i) The total number of no cost allowances distributed to a natural gas supplier for emissions year 2043 is equal to their 2042 allowance budget reduced by an additional two and six tenths percent of their allocation baseline.

(ii) The total number of no cost allowances distributed to a natural gas supplier for 2044 through 2049 decreases annually relative to the previous year by an additional two and six tenths percent of the supplier's allocation baseline.

(d) A supplier of natural gas must continue to be in compliance with chapter 173-441 WAC and this chapter to continue receiving no cost allowances. No cost allowances are not provided during periods of closure or curtailment.

(3) No cost allowances allocated to natural gas utilities may be consigned to auction for the benefit of ratepayers, deposited for compliance, or a combination of both. No cost allowances allocated to natural gas utilities may not be traded, transferred, or sold. Natural gas utilities must first use revenue from consigned allowance sales to benefit low-income ratepayers, as described in WAC 173-446-300(2).

NEW SECTION

WAC 173-446-300 Auctions of current and prior year allowances. (1) Each year starting in 2023, ecology shall submit allowances for the purposes of auctions to be held on four separate occasions, each consisting of a single round of bidding.

(2) Only the following allowances shall be auctioned:

(a) Allowances reserved by ecology for the purpose of auctions;

(b) Allowances consigned to auction by electric power entities and natural gas utilities as follows:

(i) Electric utilities may choose at any time to consign up to 100 percent of their allowances to auction. During the first compliance period, electric utilities may choose whether or not to consign no cost allowances to auction, and if so, how many allowances to consign. All proceeds from the auction of allowances consigned by electric power entities will be used for the benefit of ratepayers and will not be used to benefit entities or persons other than electric ratepayers.

(ii) Electric utilities must prioritize benefits for low-income ratepayers by first using proceeds from consigned allowance sales to provide low-income residential ratepayers bill credits (for example through energy assistance programs established via RCW 19.405.120), and energy efficiency programs (for example weatherization, conservation, and efficiency services).

(iii) After providing low-income residential ratepayers bill credits sufficient to meet the funding levels set in RCW 19.405.120(4)(a)(iii), electric utilities must use proceeds from consigned allowance sales to provide overburdened communities energy assistance, home or small business energy efficiency programs (for example weatherization, conservation, and efficiency services), and decarbonization programs (for example initiatives to encourage transportation electrification, building electrification, and distributed energy resources).

(iv) After providing the bill credits and energy services described in subsection (ii) and (iii) of this section, electric utilities must use proceeds from consigned allowance sales to provide other ratepayers home or small business energy efficiency programs (for example weatherization, conservation, and efficiency services), and decarbonization programs (for example initiatives to encourage transportation electrification, building electrification, and distributed energy resources).

(v) Natural gas utilities may choose at any time to consign up to 100 percent of their allowances to auction. Natural gas utilities must consign to auction:

(A) In 2023, at least 65 percent of the no cost allowances allocated to them for 2023;

(B) In 2024, at least 70 percent of the no cost allowances allocated to them for 2024;

(C) In 2025, at least 75 percent of the no cost allowances allocated to them for 2025;

(D) In 2026, at least 80 percent of the no cost allowances allocated to them for 2026;

(E) In 2027, at least 85 percent of the no cost allowances allocated to them for 2027;

(F) In 2028, at least 90 percent of the no cost allowances allocated to them for 2028;

(G) In 2029, at least 95 percent of the no cost allowances allocated to them for 2029;

(H) In 2030, and every year thereafter, 100 percent of the no cost allowances allocated to them for 2030.

(viii) All proceeds from the auction of allowances consigned by natural gas utilities shall be used for the benefit of natural gas customers, including at a minimum eliminating any additional cost burden to low-income customers from the implementation of the Climate Commitment Act. Auction revenues will not be used to benefit entities or persons other than natural gas ratepayers.

~~(vii) Revenues from allowances sold at auction must be returned by providing Natural gas utilities must first use revenues from consigned allowance sales to provide low-income ratepayers nonvolumetric bill credits on ratepayer utility bills, prioritizing low income customers, or used to minimize cost impacts on low income. After providing bill credits to low-income ratepayers, utilities must use revenues to benefit other~~ residential, and small business customers through actions that include, but are not limited to, weatherization, decarbonization, conservation and efficiency services, and bill assistance.

(A) The customer benefits provided from allowances consigned to auction under this section must be in addition to existing requirements in statute, rule, or other legal requirements.

(B) Except for low-income customers, any customer bill credits under this subsection are reserved exclusively for customers at locations connected to a natural gas utility's system on July 25, 2021. Bill credits may not be provided to customers of the gas utility at a location connected to the system after July 25, 2021.

(viii) The Utilities and Transportation Commission may impose additional requirements on investor-owned electric utilities or investor-owned natural gas utilities.

(3) At each auction, ecology shall submit the percentage of current and prior vintage allowances ecology considers appropriate after considering the allowances in the marketplace due to the marketing of no cost allowances issued to EITE facilities, electric utilities, and natural gas utilities.

(a) Ecology shall offer only such number of allowances at each auction as will enhance the likelihood of achieving the GHG emission reductions required in RCW 70A.45.020.

(b) By January 15th of 2024 and each succeeding year, ecology shall publish on its website the dates of the quarterly auctions for that year and the number of allowances of that year's vintage allowances that ecology will submit for each of those auctions.

(4) At each auction, consigned allowances shall be sold first. If at the end of an auction, any consigned allowances remain unsold, they shall be retained to be submitted for sale in the subsequent auction.

(5) If, at the end of an auction, any of the allowances submitted to auction by ecology have not yet been sold, ecology shall hold them to be auctioned in subsequent auctions but only after the settlement price for allowances has been above the auction floor price for two consecutive auctions. If the allowances are not sold within 24 months, ecology shall place them in the emissions containment reserve.

NEW SECTION

WAC 173-446-XXX Utility ratepayer benefit reporting. (1) For any allowance auction where Ecology sells no cost allowances consigned by electric or natural gas utilities, Ecology must send in writing to the consigning utility how many allowances consigned by the utility were sold at the auction, at what price, and the total revenue generated by the sale of the utility's consigned allowances.

(2) No later than June 30, 2024, and by June 30 each year thereafter, each consumer-owned electric and natural gas utility shall file with Ecology a report on their allocated no cost allowances and the use of any revenues generated by consigning no cost allowances to Ecology. Each utility must publish on their website the same report filed with Ecology. At a minimum, each utility's report shall include:

(a) The number of no cost allowances allocated to the utility during the previous calendar year.

(b) How many allowances the utility consigned for sale during the previous calendar year.

(c) How much revenue was generated by the sale of consigned allowances during the previous calendar year, and how much revenue was returned by Ecology to the utility during the previous calendar year.

(d) The monetary value of any revenue from previous years' consignment of no cost allowances that remains unspent after being returned to the utility by Ecology.

(e) The total spending for the benefit of ratepayers during the previous calendar year. Spending must be itemized by:

(i) The total and per-ratepayer amount spent on energy assistance and energy efficiency services for low-income ratepayers.

(ii) The total and per-ratepayer amount spent on any other ratepayer benefit programs.

(iii) A description of each ratepayer benefit program funded that includes the number of ratepayers receiving benefits under each ratepayer benefit program.

(iv) An estimate of GHG emissions and energy usage avoided due to ratepayer benefit program investments in the previous calendar year.

(3) No later than June 30, 2024, and by June 30 each year thereafter, investor-owned electric and investor-owned natural gas utilities must submit a report with at least the contents specified in WAC § 173-446-XXX(2) to the Utilities and Transportation Commission. The Utilities and Transportation Commission may impose additional requirements on investor-owned electric utilities or investor-owned natural gas utilities.